



**DEPARTMENT OF HOMELAND SECURITY**

**[DHS-2011-0108]**

**RIN 1601-ZA11**

**Identification of Foreign Countries Whose Nationals Are Eligible  
to Participate in the H-2A and H-2B Nonimmigrant Worker Programs**

**AGENCY:** Office of the Secretary, DHS.

**ACTION:** Notice.

**SUMMARY:** Under Department of Homeland Security (DHS) regulations, U.S. Citizenship and Immigration Services (USCIS) may approve petitions for H-2A and H-2B nonimmigrant status only for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated by notice published in the **Federal Register**. That notice must be renewed each year. This notice announces that the Secretary of Homeland Security, in consultation with the Secretary of State, is identifying 59 countries whose nationals are eligible to participate in the H-2A and H-2B programs for the coming year. The list published today includes one new addition: Grenada.

**DATES:** *Effective Date:* This notice is effective January 18, 2013, and shall be without effect at the end of one year after January 18, 2013.

**FOR FURTHER INFORMATION CONTACT:** Francis Cissna, Office of Policy, Department of Homeland Security, Washington, DC 20528, (202) 447-3835.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND:** Generally, USCIS may approve H-2A and H-2B petitions for nationals of

only those countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated as participating countries. Such designation must be published as a notice in the **Federal Register** and expires after one year. USCIS, however, may allow a national from a country not on the list to be named as a beneficiary of an H-2A or H-2B petition based on a determination that such participation is in the U.S. interest. See 8 CFR 214.2(h)(5)(i)(F) and 8 CFR 214.2(h)(6)(i)(E).

In designating countries to include on the list, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will take into account factors including, but not limited to: (1) the country's cooperation with respect to issuance of travel documents for citizens, subjects, nationals, and residents of that country who are subject to a final order of removal; (2) the number of final and unexecuted orders of removal against citizens, subjects, nationals, and residents of that country; (3) the number of orders of removal executed against citizens, subjects, nationals, and residents of that country; and (4) such other factors as may serve the U.S. interest. See 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1).

In December 2008, DHS published in the **Federal Register** two notices, "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2A Visa Program," and "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2B Visa Program," which designated 28 countries whose nationals are eligible to participate in the H-2A and H-2B programs. See 73 FR 77,043 (Dec. 18, 2008); 73 FR 77,729 (Dec. 19, 2008). The notices ceased to have effect on January 17, 2010 and January 18, 2010, respectively. See 8 CFR 214.2(h)(5)(i)(F)(2) and 8 CFR 214.2(h)(6)(i)(E)(3). To allow for the continued operation of the H-2A and H-2B programs, the Secretary of Homeland Security, with the concurrence of the Secretary of State, has published subsequent notices on an annual basis. See 75 FR 2,879

(Jan. 19, 2010) (adding 11 countries); 76 FR 2,915 (Jan. 18, 2011) (removing Indonesia and adding 15 countries); 77 FR 2,558 (Jan. 18, 2012) (adding five countries).

The Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that the 58 countries designated in the January 18, 2012 notice continue to meet the standards identified in that notice for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H-2A and H-2B programs. Further, the Secretary of Homeland Security, with the concurrence of the Secretary of State, has determined to add Grenada to the list. This determination is made taking into account the four factors identified above. The Secretary of Homeland Security also considered other pertinent factors including, but not limited to, evidence of past usage of the H-2A and H-2B programs by nationals of the country to be added, as well as evidence relating to the economic impact on particular U.S. industries or regions resulting from the addition or continued non-inclusion of specific countries.

**Designation of Countries Whose Nationals Are Eligible to Participate in the H-2A and H-2B Nonimmigrant Worker Programs**

Pursuant to the authority provided to the Secretary of Homeland Security under sections 214(a)(1), 215(a)(1), and 241 of the Immigration and Nationality Act (8 U.S.C. 1184(a)(1), 1185(a)(1), and 1231), I am designating, with the concurrence of the Secretary of State, nationals from the following countries to be eligible to participate in the H-2A and H-2B nonimmigrant worker programs:

Argentina

Australia

Barbados

Belize  
Brazil  
Bulgaria  
Canada  
Chile  
Costa Rica  
Croatia  
Dominican Republic  
Ecuador  
El Salvador  
Estonia  
Ethiopia  
Fiji  
Grenada  
Guatemala  
Haiti  
Honduras  
Hungary  
Iceland  
Ireland  
Israel  
Jamaica  
Japan

Kiribati  
Latvia  
Lithuania  
Macedonia  
Mexico  
Moldova  
Montenegro  
Nauru  
The Netherlands  
Nicaragua  
New Zealand  
Norway  
Papua New Guinea  
Peru  
The Philippines  
Poland  
Romania  
Samoa  
Serbia  
Slovakia  
Slovenia  
Solomon Islands  
South Africa

South Korea

Spain

Switzerland

Tonga

Turkey

Tuvalu

Ukraine

United Kingdom

Uruguay

Vanuatu

This notice does not affect the status of aliens who currently hold valid H-2A or H-2B nonimmigrant status. Persons holding such status, however, will be affected by this notice at the time they seek an extension of stay in H-2 classification, or a change of status (1) from another nonimmigrant status to H-2 status or (2) from one H-2 status to another.

Nothing in this notice limits the authority of the Secretary of Homeland Security or her designee or any other federal agency to invoke against any foreign country or its nationals any other remedy, penalty, or enforcement action available by law.

Janet Napolitano,  
Secretary.